

# **2001-2002 Environmental Quality Council Work Plan**

September 18, 2001

# Table of Contents

## **Information about the 2001-2002 Draft Work Plan**

Introduction .....	1
How the EQC Plans its Work .....	1

## **Work Plan Topics**

Coal Bed Methane (HJR 27) .....	2
DNRC Fire Management Program Funding (HJR 42) .....	3
Montana Environmental Policy Act (MEPA) .....	4
Water Policy .....	5
Energy Policy Development .....	5
Environmental Conditions/Trends (Indicators) .....	6
Oversight .....	7

<b><u>2001 -2002 Work Plan Timeline</u></b> .....	9
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## Information about the 2001-2002 Work Plan

### **Introduction**

This is the work plan for the Environmental Quality Council (EQC or Council) for the 2001-2002 interim. In this document you will find:

- ? An explanation of how the EQC plans its work.
- ? A description of work plan topics and the EQC's decision for addressing those topics.
- ? An interim timeline.

### **How the EQC Plans its Work**

During the legislative interim, the EQC typically focuses on two to four major study topics, while also maintaining oversight of programs and rulemaking activities of the Montana Department of Natural Resources and Conservation; the Montana Department of Environmental Quality; and the Montana Department of Fish, Wildlife, and Parks.

The Council selects study topics at the beginning of the interim. **The primary constraint limiting the EQC study agenda for the interim is the number of issues that can be effectively addressed within the available time and resources of Council members and staff.**

This *2001-2002 Work Plan* is really a **decisionmaking tool** to help Council members work together efficiently to set priorities and decide how and where to spend the EQC's time and resources. The work plan becomes the EQC's blueprint for the 2001-2002 interim. Staff will subsequently develop detailed draft work plans and timetables for each major study. A timeline illustrates the overall schedule that these work plans will fit into is presented at the end of this document.

The work plan includes studies that were requested by legislators through study resolutions, as well as statutory mandates. The EQC's statutory mandates are broad. (See *A Council Member's Guide to the Environmental Quality Council*.)

## Selected Work Plan Topics

### ***Coal Bed Methane***

**Source/authority:** HJR 27 (2001)  
85-2-105, MCA

Legislative Poll Ranking: 2nd

#### **Background information:**

The Montana Board of Oil and Gas Conservation (BOGC) has permitted approximately 300 coal bed methane wells in Montana. In June 2000, the BOGC signed a stipulation and settlement agreement with the Northern Plains Resource Council, Inc. The BOGC agreed to a moratorium on the issuance of new permits until a statewide programmatic supplemental environmental impact statement (EIS) is prepared and a record of decision is signed pursuant to state law. The settlement agreement allows the BOGC to permit up to 200 new test wells statewide, subject to certain conditions.

The BOGC only has authority over drilling for coal bed methane on private and state lands. Federal agencies and Indian tribes have jurisdiction over other lands.

The federal Bureau of Land Management (BLM), the Montana Department of Environmental Quality (DEQ), and the BOGC are jointly preparing an EIS to analyze the impacts of proposed oil and gas development, including coal bed methane development. House Joint Resolution No. 27 (HJR 27) requests that the EQC provide oversight for the state's preparation or involvement in the EIS. Specifically, the resolution requests:

1. Quarterly status reports on the progress and preparation of the EIS from the staff of the DEQ and the BOGC.
2. A forum for concerns. Specifically, that the EQC serve as a forum for members of the public to present concerns regarding the timing and cost-effectiveness of the EIS.
3. A brief report from the EQC of its findings and conclusions regarding the EIS process. The report is to be presented to the 58th Legislature and the Governor.

#### **Council Action:**

The EQC appointed a six person Coal Bed Methane/Water Policy Subcommittee. The Council allocated .60 full time equivalent (FTE) staff to address coal bed methane issues during the 2001-2002 interim. The Subcommittee is charged with developing its own work plan on coal bed methane issues. For further information on this topic visit the following website address: [leg.mt.gov/services/lepo/subcommittees/wpsub.htm](http://leg.mt.gov/services/lepo/subcommittees/wpsub.htm) or contact the following staff person:

Mary Vandenberg -- 444-5367  
mvandenberg@mt.gov

## **DNRC Fire Management Program Funding**

**Source/authority:** HJR 42 (2001). Legislative Poll Ranking: 11th

**Background:** House Joint Resolution No. 42 (HJR 42) addresses the fact that the population of Montana is beginning to inhabit areas that have historically been wildlands and that costs associated with wildfire suppression and control in these areas has increased dramatically. Currently, the state relies on the Montana Department of Natural Resources and Conservation's (DNRC's) normal general appropriations act funding and general fund money through a supplemental appropriation to pay costs associated with fire suppression. HJR 42 is a resolution requesting an interim study or staff research of alternatives for funding the DNRC overall fire management program, including costs associated with wildfire suppression.

The resolution requests that Legislative Council designate the appropriate committee or allocate sufficient staff resources to study and review current statutes that establish and define the DNRC's fire management program and source of funding and recommend alternatives for funding:

- ? **DNRC's overall fire management program.** This would include both the direct protection program and the county assistance program; and
- ? **Determination of costs and comparison of costs for fire suppression.** The two types of programs include the direct protection program and the county assistance program.

The resolution encourages the interim committee assigned to conduct this study or the staff assigned this study to present the information to the appropriate committee. The committee must report to the 58th Legislature.

The Legislative Council assigned this study topic to the EQC. There may be an opportunity to cooperate with the Legislative Fiscal Division to address these issues.

### **Council Action:**

The EQC allocated .10 full time equivalent (FTE) staff to this effort during the 2001-2002 interim. The Council directed staff to work with Legislative Fiscal Division staff on this issue and report back to the Council before the end of the interim. For further information on this topic contact the following staff person:

Krista Lee Evans -- 444-3957  
klee@mt.gov

## **Montana Environmental Policy Act (MEPA)**

**Source/authority:** See Title 75, chapter 1, parts 1 through 3.  
Section 75-1-324 directs the EQC to:

review and appraise the various programs and activities of the state agencies, in the light of the policy set forth in part 1 of MEPA, for the purpose of determining the extent to which the programs and activities are contributing to the achievement of the policy, and make recommendations to the governor and the legislature with respect to the policy.

Part 2 of MEPA calls for state agencies to provide copies of environmental reviews to the EQC. The creation, duties, and responsibilities of the EQC are found in part 3 of MEPA.

**Background:** The EQC does not implement the environmental analysis requirements in Part 2 of MEPA. Council staff routinely receive and electronically catalog nearly 3,000 environmental review documents that are prepared by state agencies each year. The EQC has developed a database of thousands of MEPA review documents that have been submitted by agencies since 1971. In keeping with its oversight responsibilities and as the result of Senate Joint Resolution No. 18 (SJR 18) (1999), the EQC conducted a major MEPA implementation study last interim. The study included several findings and recommendations.

During the 2001 Legislature, the following bills were enacted that alter the implementation of MEPA: House Bill 459, House Bill 473, House Bill 477, Senate Bill 33, Senate Bill 376, Senate Bill 377, and Senate Bill 408. In the past, as time permits and demand requires, the EQC has provided MEPA information, training, and training materials to agencies. The 2001 Legislature has not directed the EQC to take any specific action on MEPA beyond its general statutory duties. SJR 3 which would have requested a further study of certain MEPA issues was not approved by the Legislature.

### **Council Action:**

The EQC appointed a three person Agency Oversight/MEPA subcommittee that is charged with MEPA oversight. The EQC allocated .40 full time equivalent (FTE) staff to MEPA efforts during the 2001-2002 interim. The Subcommittee is charged with developing its own work plan on MEPA issues. For further information on this topic visit the following web site: [leg.mt.gov/services/lepo/subcommittees/oversightsb.htm](http://leg.mt.gov/services/lepo/subcommittees/oversightsb.htm) or contact the following staff person:

Larry Mitchell -- 444-1352  
lamitchell@mt.gov

## **Water Policy**

**Source/authority:** 85-2-105, MCA.  
Recommendations of 1997-98 EQC.

**Background:** The water policy duties of the EQC that are set forth in 85-2-105, MCA are paraphrased below.

1. Advise the Legislature on the **adequacy of Montana's water policy**.
2. Advise the Legislature on **important state, regional, national, and international developments** that affect Montana's water resources.
3. Oversee **policies and activities of executive branch agencies** and other state institutions that affect Montana's water resources.
4. Assist with **interagency coordination** related to Montana's water resources.
5. **Communication with the public** about water policy and water resources.
6. Analyze and comment on the **State Water Plan**, when prepared by the Montana Department of Natural Resources and Conservation (DNRC).
7. Analyze and comment on the **Renewable Resource Grant and Loan Program** report.
8. Analyze and comment on **water related research** undertaken by state entities.
9. Analyze, verify and comment on the information in the **Water Information System of the Natural Resource Information System**.
10. Report to the Legislature.

The EQC may also choose to focus their time on water policy issues that are not statutorily provided.

### **Council Action:**

The EQC appointed a six person Coal Bed Methane/Water Policy Subcommittee. The Council allocated .40 full time equivalent (FTE) staff to water policy efforts during the 2001-2002 interim. The Subcommittee is charged with developing its own work plan on water policy issues. For further information on this topic visit the following website address:  
[leg.mt.gov/services/lepo/subcommittees/wpsub.htm](http://leg.mt.gov/services/lepo/subcommittees/wpsub.htm) or contact the following staff person:

Krista Lee Evans -- 444-3957  
klee@mt.gov

## **Energy Policy Development**

**Source/authority:** 90-4-112 and 90-4-1003, MCA.

**Background:** The Council may, as the need arises, maintain a continual process to develop the components of a comprehensive state energy policy. The Council is also required to review and evaluate the Montana Department of Environmental Quality (DEQ) research reports on

renewable energy sources and development programs. The Council expended a significant amount of effort in the 1993-94 interim in developing a state-wide energy policy statement. The 1995 Legislature enacted the EQC's recommendations. During the 1995-96 interim the EQC assigned a broad-based working group of stakeholders to make recommendations on transportation energy policy and on alternative transportation fuels. Again, the 1997 Legislature adopted the EQC's recommendations. Since that time, there has been little activity in terms of energy policy development. The EQC monitored and received updates on electric industry restructuring during the 1997-98 and 1999-2000 interims. EQC staff also staffed the Transition Advisory Committee on Electric Industry Restructuring during the 1997-98 and 1999-2000 interims.

#### **Council Action:**

The EQC appointed a seven person Energy Policy Subcommittee. The Council allocated 1.00 full time equivalent (FTE) staff to energy policy efforts during the 2001-2002 interim. The Subcommittee is charged with developing its own work plan on energy policy issues. For further information on this topic visit the following website address:

[leg.mt.gov/services/lepo/subcommittees/energysub.htm](http://leg.mt.gov/services/lepo/subcommittees/energysub.htm) or contact the following staff person:

Todd Everts -- 444-3747  
teverts@mt.gov

### **Environmental Conditions/Trends (Indicators)**

**Source/authority:** 75-1-324, MCA.

**Background:** Montana's 1971 MEPA is closely patterned after the National Environmental Policy Act of 1969. The federal law (NEPA) established a Council on Environmental Quality (CEQ) attached to the President's office. Among the CEQ's responsibilities is a duty:

to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in title 1 of this Act, and to compile and submit to the President studies relating to such conditions and trends;

and

to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of the changes or trends and an interpretation of their underlying causes; . . .

This NEPA language will sound familiar to EQC veterans. The following are portions of the statutory direction to the EQC regarding environmental trends:

**75-1-324. Duties of environmental quality council.** The environmental quality council



shall: (1) gather timely and authoritative information concerning the conditions and trends in the quality of the environment, both current and prospective, analyze and interpret the information for the purpose of determining whether the conditions and trends are interfering or are likely to interfere with the achievement of the policy set forth in 75-1-103, and compile and submit to the governor and the legislature studies relating to the conditions and trends;

(5) document and define changes in the natural environment, including the plant and animal systems, and accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

The federal CEQ accomplishes this goal, in part, by producing an "annual" report for the President on the state and condition of the environment. These reports are required by NEPA and are available at the following website: <http://ceq.eh.doe.gov/nepa/reports/reports.htm>.

The MEPA requirement that the EQC produce a similar annual report to the Governor and the Legislature was repealed by the Montana Legislature in 1993. From 1972 to 1976, the EQC prepared comprehensive annual reports on the status of Montana's natural and human environment. In the following years, the EQC only reported on more specific aspects of the environment such as energy, water, or solid waste depending on the priority issues of the Council at the time. In 1996, the EQC produced and distributed *Our Montana Environment . . . Where Do We Stand?* That report was an effort to gather more comprehensive information on specific environmental conditions using selected indicators and to identify trends that had occurred since the comprehensive indicators report produced in 1975. In December 1996, the EQC recommended that the 1996 indicators report be revised and updated every 4 or 5 years.

#### **Council Action:**

No resources were specifically assigned to this topic. The EQC decided to incorporate environmental condition and trend information in any of the selected EQC interim work topics. For further information on this topic contact the following staff person:

Larry Mitchell -- 444-1352  
lamitchell@mt.gov

#### **Oversight**

**Source/authority:** SB 10 (2001)  
2-4-401 through 412; 75-1-324, MCA.

**Background:** Under MEPA (75-1-324), the EQC has broad statutory oversight authority and has historically used that authority to review agency activities on an issue by issue basis as the need arises. In 1999 and 2001, the Legislature further expanded and defined the EQC's oversight authority to include draft legislation review, administrative rule review, program evaluation, and monitoring of the Montana Department of Environmental Quality, Montana Department of Natural Resources and Conservation, and the Montana Department of Fish, Wildlife, and Parks.

The Legislature's actions in 1999 required the EQC to take a more systematic approach to agency oversight, especially in terms of administrative rule review. EQC legal staff will monitor the rule adoption process and the Council will receive periodic updates on the administrative rule adoption process for each agency. Pursuant to 2-4-401 through 412, MCA, the Council has the authority to request records; make recommendations for adoption, amendment, or rejection of a rule; institute, intervene in, or otherwise participate in rulemaking proceedings; review the conduct of administrative proceedings; request a legislative poll; request an economic impact statement on a rule; or object to violation of authority for a rule.

As of 2001, the EQC is also now required pursuant to Senate Bill 10 (SB10), to review proposed draft legislation from each of the departments within its jurisdiction. At the end of the interim, the EQC will schedule time to review this draft legislation.

Traditionally, the EQC has one or more agency oversight issues on the agenda for each meeting. There are also a number of statutorily required agency reports that are scheduled for presentations before the Council. One of the more significant is the compliance and enforcement of environmental and natural resource laws report required pursuant to 75-1-314, MCA.

#### **Council Action:**

The EQC appointed a three person Agency Oversight/MEPA subcommittee that is charged with agency oversight. The EQC allocated .25 full time equivalent (FTE) staff to this effort during the 2001-2002 interim. The Subcommittee is charged with developing its own work plan on agency oversight issues. For further information on this topic visit the following web site: [leg.mt.gov/services/lepo/subcommittees/oversightsub.htm](http://leg.mt.gov/services/lepo/subcommittees/oversightsub.htm) or contact the following staff person:

Larry Mitchell -- 444-1352  
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## 2001-2002 Work Plan Timeline

*[Note: This timeline is provided to give you an idea of the timeline that each study will need to fit into in order to complete the work on time. The timeline shows the last date for completion of certain items. Additional EQC and or Subcommittee meetings may be scheduled if time and budget allow.]*

September 10 and 11, 2001	<b>EQC Meeting/Subcommittee Meetings.</b> Adoption of detailed work plans for each subcommittee and study. Tour of Colstrip and Coal Bed Methane sites.
December 10, 2001 December 11, 2001	<b>Subcommittee Meetings.</b> <b>EQC Meeting.</b>
February 7, 2002 February 8, 2002	<b>Subcommittee Meetings (if needed).</b> <b>EQC Meeting.</b>
May 9, 2002 May 10, 2002	<b>Subcommittee Meetings (if needed).</b> <b>EQC Meeting.</b> Last date to decide on contents of <i>draft</i> document if public comment desired. [May be earlier for some studies.] If available, review agency bill draft requests per SB 10 guidance (2001). Staff report on DNRC fire funding study.
June 10, 2002	Last date for staff to have document revised and distributed to public for 1 month comment period. Comments received from the public will be compiled by staff and distributed to the EQC 1-2 weeks before the July 26, 2002 meeting.
July 25, 2002 July 26, 2002	<b>Subcommittee Meetings (if needed)</b> <b>EQC Meeting.</b> Decision on recommendations, any proposed legislation, report contents. Renewable resource grant and loan applications and rankings report. Review agency bill draft requests per SB 10 guidance (2001).
September 12-13, 2002	<b>EQC Meeting.</b> Final approval of recommendations, proposed legislation. Selection of bill sponsors. Development of strategy. Review agency bill draft requests per SB 10 guidance (2001). Review agency environmental compliance and enforcement reports.
	Council interim work must be completed prior to September 15, 2002.